

Before the
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mail Classification Schedule Change
(Negotiated Service Agreements)

Docket No. MC2012-1

PUBLIC REPRESENTATIVE COMMENTS CONCERNING NEGOTIATED SERVICE
AGREEMENTS CLASSIFICATION SCHEDULE CHANGE

(December 29, 2011)

I. INTRODUCTION

On December 20, 2011, the Postal Service filed a notice of classification change pursuant to 39 C.F.R. 3020.90 and 3020.91 concerning Negotiated Service Agreements (NSAs).¹ The Postal Service proposes to provide alternative methods of payment of postage and fees to customers of market dominant and competitive NSAs.

The Public Representative respectfully submits the following comments in response to the Commission's request for comments concerning NSAs.²

II. PUBLIC REPRESENTATIVE'S COMMENTS

The Postal Service in its Notice adds the sentence to the existing description of NSAs in the Mail Classification Schedule "(t)he terms of a negotiated service agreement can specify prepayment or other methods for payment of postage and fees".³ The Postal Service

¹ Notice of Minor Classification Changes, December 20, 2011 (Notice).

² Notice and Order Concerning Classification Change, December 22, 2011 (Order No. 1065).

³ Notice of Minor Classification Changes, December 20, 2011, attachment

also includes a reference to the recently filed Priority Mail Contract 36 that specifies payment by “ACH credit to the USPS financial institution of choice”.⁴

The current practice for the payment for NSA's is for the Postal Service to draw down on the mailers account as it incurs expenses in fulfilling the contract, akin to the “pay as you go” method. The current system of payment imbeds low risk as the mailer prepays into an account which guarantees funds available to the Postal Service. A reconciliation of the account ensures accurate reimbursement for services rendered.

A. ACH Costs

The new method of payment proposed by the Postal Service also assumes low risk. The A.C.H. (Automated Clearing House) method of payment is an electronic transfer of funds between financial institutions. Each financial institution determines its own pricing regarding ACH payments. A bank may charge a one-time implementation fee and a monthly maintenance fee after implementing ACH. Transaction volume also helps determine the cost structure. Mailers with higher ACH volume may receive discounts. Mailers with lower volume ACH activity, such as the small business mailer, may be offered bundled services for a fixed rate.

B. ACH Transaction Risks

The originating bank assumes the risk for both ACH credit and debit transactions while the receiving bank incurs the risk of ACH credits only. It is important that the Postal Service be concerned about operational risk and implement procedures and backup copies of ACH activity and take steps to ensure hardware and software does not fail.

The Postal Service should also be aware of the risk surrounding ACH authorization. They should ensure that they receive authorizations from their mailers and implement processes in place to maintain those authorizations. There has to be some traceable means to validate that the transactions were authorized. Proper segregation of duties and Sarbanes Oxley controls should be implemented to reduce the risks involved in ACH transactions.

⁴ Docket Nos. MC2012-2 and CP2012-6, Request of the United States Postal Service to Add Priority Mail Contract 36 to Competitive Product List and Notice of Filing (Under Seal) of Contract and Supporting Data, December 20, 2011, Attachment B, Page 2

C. Broad Interpretation

Several concerns arise from the sentence added to the existing NSA description. The Notice filed by the Postal Service does not specify the alternate methods of payment and it is not clear from the Postal Service submission that the ACH Credit method of payment is the only alternate method considered.

The Commission should be give careful consideration to the latitude afforded the Postal Service by the aforementioned sentence. While flexibility in structuring payments is an advantage the added risks involved for an institution in dire financial straits should be considered.

If the Postal Service's request is approved, there is a possibility that it can be interpreted in the future to imply that alternate methods of payment could include offering credit terms to smaller mailers, placing the Postal Service in the realm of non postal services such as banking.

III. CONCLUSION

For reasons stated above, the Public Representative urges the Commission not to approve the addition to the existing language of the NSA and respectfully submits the above comments for the Commission's consideration.

Cassie D'Souza
Public Representative

901 New York Ave., NW Suite 200
Washington, D.C. 20268-0001
(202) 789-6815, FAX -6861
cassie.dsouza@prc.gov